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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/728,879	12/01/2000	Juergen Kockmann	00 P 9045 US	5711

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Siemens Corporation  
Intellectual Property Department  
186 Wood Avenue South  
Iselin, NJ 08830

EXAMINER
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FOX, JAMAL A

ART UNIT	PAPER NUMBER
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2664

DATE MAILED: 06/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/728,879

Applicant(s)

KOCKMANN ET AL.

Examiner

Jamal A Fox

Art Unit

2664

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 01 December 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,5,9 and 13 is/are rejected.
- 7) ☒ Claim(s) 2-4,6-8,10-12 and 14 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 December 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claim 1 is rejected under 35 U.S.C. 102(e) as being anticipated by Rikkinen et al. U.S. Patent No. 6,031,827.

Referring to claim 1, Rikkinen et al. discloses a telecommunications method, comprising: transmitting a transmit slot (Fig. 3, ref. sign I and col. 7 lines 4-22) as part of a first active connection in a frame (Fig. 3 ref. sign 19) at a first frequency (col. 18 line 7) between a base station and a mobile unit (col. 2 line 56 – col. 3 line 27); determining that said slot has been interfered with (reservation table routine, col. 7 lines 32-46); and retransmitting at least a predetermined portion of said transmit slot, during a subsequent

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frame on a second frequency (col. 18 line 8) or during the same frame on the same frequency (col. 12 lines 9-25).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 5, 9 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rikkinen et al. Referring to claim 5, Rikkinen et al. discloses a telecommunications device (col. 2 line 56 – col. 3 line 27), comprising: a carrier quality unit adapted to determine if the first carrier frequency is interfered with (reservation table routine, col. 7 lines 32-46), but does not explicitly teach of a receiver adapted to receive a first data slot in a frame at a first carrier frequency during a communication; wherein the receiver is adapted to receive a retransmission of the first data slot at a next carrier frequency during a next frame if the first carrier frequency is interfered with or on the same frame during a later slot. However, a receiver is disclosed in (col. 2 line 8 and col. 2 line 32). Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to have included a receiver adapted to receive a first data slot in a frame at a first carrier frequency during a communication; wherein the receiver is adapted to receive a retransmission of the first data slot at a next carrier frequency during a next frame if the first carrier frequency is interfered with or on the same frame during a later slot because base stations and mobile units have transmitters and

receivers. Furthermore, it is well known that one of the biggest challenges of the base station is to control the use of the physical radio resources so that mobile units located in the cell coverage are at any moment capable of receiving data transmission services of the requested quality, and that adjacent cells interfere with each other as little as possible.

Referring to claim 9, Rikkinen et al. discloses a telecommunications device (col. 2 line 56 – col. 3 line 27), comprising: a means for determining that a slot has been interfered with (reservation table routine, col. 7 lines 32-46); but does not explicitly teach of a means for transmitting a slot as part of a first active connection in a frame at a first frequency between a base station and a mobile unit; and a means for retransmitting the transmit slot during a subsequent frame on a second frequency or during the same frame on the same frequency. However, a transmitter is disclosed in (col. 2 lines 31-32 and col. 5 line 66 – col. 6 line 11). Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to have included a means for transmitting a slot as part of a first active connection in a frame at a first frequency between a base station and a mobile unit; and a means for retransmitting the transmit slot during a subsequent frame on a second frequency or during the same frame on the same frequency because base stations and mobile units have transmitters and receivers. Furthermore, it is well known that one of the biggest challenges of the base station is to control the use of the physical radio resources so that mobile units located in the cell coverage are at any moment capable of receiving data transmission services

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of the requested quality, and that adjacent cells interfere with each other as little as possible.

Referring to claim 13, Rikkinen et al. discloses a telecommunications system (base station subsystem, col. 2 line 56 – col. 3 line 27) comprising: a plurality of telecommunications devices (base station and mobile station, col. 2 line 56 – col. 3 line 27), at least two of the telecommunications devices comprising: a carrier quality unit adapted to determine if the first carrier frequency is interfered with (reservation table routine, col. 7 lines 32-46), but does not explicitly teach of a receiver adapted to receive a first data slot in a frame at a first carrier frequency during a communication; and wherein the receiver is adapted to receive retransmission of the first data slot at a next carrier frequency during the next frame or in the same frame during a later slot if the first carrier frequency is interfered with. However, a receiver is disclosed in (col. 2 line 8 and col. 2 line 32). Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to have included a receiver adapted to receive a first data slot in a frame at a first carrier frequency during a communication; and wherein the receiver is adapted to receive retransmission of the first data slot at a next carrier frequency during the next frame or in the same frame during a later slot if the first carrier frequency is interfered with because base stations and mobile units have transmitters and receivers. Furthermore, it is well known that one of the biggest challenges of the base station is to control the use of the physical radio resources so that mobile units located in the cell coverage are at any moment capable of receiving data transmission

services of the requested quality, and that adjacent cells interfere with each other as little as possible.

***Allowable Subject Matter***

5. Claims 2-4, 6-8, 10-12 and 14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

6. **Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks  
Washington, D.C. 20231

**or faxed to:**

(703) 305-3988, (for formal communications intended for entry)

**Or:**

(703) 305-3988 (for informal or draft communications, please label "PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA. 22202, Sixth Floor (Receptionist).

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jamal A. Fox whose telephone number is (703) 305-5741. The examiner can normally be reached on Monday-Friday 6:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wellington Chin can be reached on (703) 305-4366. The fax phone numbers for the organization where this application or proceeding is assigned are (703)

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872-9306 for regular communications and (703) 872-9315 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-0377.

J.A.F.

**Jamal A. Fox**



**WELLINGTON CHIN**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 2600**